



W.P.No.11251 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11251 of 2024 and W.M.P.Nos. 12349, 12350 & 12351 of 2024

Tvl. A. Ganesh,
Sole Proprietor of Sri Vigneswara Traders,
S/o. Mr. R. Annamalai.

... Petitioner

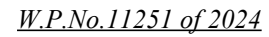
Versus

1.The State Tax Officer,
Arcot Assessment Circle, SF No.16/34, CT Building,
Arni Main Road, Tajpura, Arcot – 632 521.

2.The Branch Manager,
State Bank of India, Commercial Branch, Walajapet,
Ranipet – 632 513.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a Writ of Certiorarified Mandamus, calling for the records in Reference No. ZD331023050605X dated 10.10.2023 along with summary of the order u/s.73 of the TNGST Act, 2017 in GSTIN 33AOXPG2307R1ZF /2019-2020 dated 10.10.2023 on the file of the first respondent relating to the F.Y. 2018-19 and quash the same and further direct the first Respondent to lift the bank attachment in Bank Account of the Petitioner vide A/c No- 00000040609591652 held with the second respondent.



For Respondents : Mrs. K. Vasanthamala,
Government Advocate (Tax). (for R1)

An order in original dated 10.10.2023 is challenged on the ground of breach of principles of natural justice.

2. By asserting that the petitioner was unaware of proceedings culminating in the impugned order until the petitioner was informed that his bank account was frozen, the present writ petition is filed.

3. Learned counsel for the petitioner submits that the tax proposal which was confirmed by the impugned order relates to reversal of Input Tax Credit on account of belated filing of returns. Since the show cause notice and order were uploaded on the GST portal but not communicated to the petitioner through any other mode, he submits that the petitioner was unaware of these proceedings. He makes a request that the petitioner be provided an opportunity to contest the tax demand on merits, by further submitting that the petitioner agrees to remit 10% of the disputed



W.P.No.11251 of 2024

tax demand as a condition for remand.

WEB COPY

4. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice on behalf of the first respondent. By drawing reference to the impugned order, she points out that such order was preceded by show cause notice dated 26.03.2023 and three reminders offering personal hearing.

5. On perusal of the impugned order, it is evident that such order confirmed the tax proposal only on the ground that the petitioner filed the returns belatedly. Such finding was recorded because the petitioner did not reply to the show cause notice or attend the personal hearing. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary to provide the petitioner with an opportunity to contest the disputed tax demand on merits.

6. Therefore, the impugned order dated 10.10.2023 is set aside and the matter is remanded to the respondent concerned for reconsideration



W.P.No.11251 of 2024

subject to the condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this order.

The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. As a consequence of the impugned order being set aside, the bank attachment is raised.

7. W.P.No.11251 is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

26.04.2024

Index : Yes/No

Speaking Order : Yes/No

Neutral Case Citation: Yes/No

klt



W.P.No.11251 of 2024

WEB COPY

To

1.The State Tax Officer,
Arcot Assessment Circle,
SF No.16/34, CT Building,
Arni Main Road,
Tajpura, Arcot – 632 521.

2.The Branch Manager,
State Bank of India,
Commercial Branch,
Walajapet,
Ranipet – 632 513.



WEB COPY



W.P.No.11251 of 2024

SENTHILKUMAR RAMAMOORTHY,J.

klr

W.P.No.11251 of 2024
and
W.M.P.Nos.12349, 12350 & 12351 of 2024

26.04.2024